

EXHIBIT “B”

Part 6 of 7

DEPOSITION OF JOSEPH J. HOCHREITTER, JR., 2/27/07

1 of the records for a given year for
2 SPS were complete?

3 A. Let's see. I think it's
4 fair to say that none of the records
5 for SPS were considered complete for
6 any given year.

7 We felt that they were
8 spotty, and I believe in the write-
9 up, and let me take a look at what we
10 concluded. "Recognizing that Table
11 4a's information only --" this is,
12 I'm sorry, on Page 3-14, second
13 paragraph from the bottom -- "that
14 Table 4a's information only
15 represents minimum waste quantities
16 generated and disposed. Table 4b
17 utilizes the quantities summarized in
18 4a to extrapolate the potential
19 generated during the approximate
20 eight-year period."

21 So we recognized that we
22 felt that these were minimum waste
23 quantities generated and disposed,
24 that there were holes in this data



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1 set as well, as there were with
2 almost all of them.

3 Q. And how -- like, for
4 instance, with respect to chromic
5 acid, how did you know that those
6 records were incomplete?

7 A. In the case of chromic
8 acid, we had two pickups in June, one
9 in August of 1970, we had three
10 pickups of chromic acid, identified
11 different ways, in 1971, all around
12 the end of September, beginning of
13 October.

14 Is it possible for just
15 those two years that they were
16 batching this material and that was
17 all they generated? I suppose that's
18 possible. But then there are storage
19 implications associated with,
20 depending on how this waste was
21 characterized, whether they would be
22 allowed to store it for a year.

23 So when you look at that,
24 it's reasonable to think that this



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1 was probably just partial records
2 rather than an accumulation over a
3 year.

4 Q. But you didn't consider the
5 frequency as to how the waste was
6 generated or whether they may have
7 stored it for some period of time on
8 site?

9 A. We considered it, and,
10 again, given the classification that
11 some of this waste would clearly have
12 as RCRA hazardous, if they were
13 accumulating it over 90 days then
14 they were in regulatory difficulty.

15 We didn't want to assume
16 they were in regulatory difficulty,
17 so we assumed, in turn, that they
18 probably were compliant with the law,
19 they just weren't reporting
20 everything.

21 Q. And does that hold true for
22 1971? In other words, is the basis
23 for your opinion that the 1971
24 chromic acid records are not



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1 complete, is that based on the RCRA
2 statute and RCRA regulations?

3 A. That's only part of it. I
4 mean, it's a judgment call based on
5 the fact that we only received three
6 entries for 1971 in the chromic acid
7 example, and they are all clustered
8 around a three-week period, and then
9 we move on to 1972.

10 Q. Now, are some of the wastes
11 that are listed in mixed waste or
12 other, isn't some of that also
13 chromic acid?

14 A. It is possible that it
15 could be chromic acid. The problem
16 is that the name that was given for
17 this waste is not specific enough.
18 We simply can't say.

19 For example, is it possible
20 that acid waste is chromic acid? It
21 is possible. But since it doesn't
22 have chromic or chromate or something
23 in it that would identify it as
24 chromium related --



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1 Q. Well, some of them do in
2 the mixed waste category?

3 A. Well, hold on. I'm sorry,
4 I was thinking you were talking about
5 other. In mixed waste, absolutely,
6 some of it can be chromic acid and,
7 in fact, is identified as such, but
8 it's mixed with other things. It's
9 not just chromic acid. It's chromic
10 acid with something else, so that's
11 why we slid it over to the mixed
12 waste category.

13 Q. So when you were
14 considering whether chromic acid
15 records for 1971 were complete, did
16 you also consider the mixed waste
17 records in that analysis?

18 A. We did not. We did not.
19 Because I don't know that -- for just
20 one example, I don't know that those
21 mixed wastes came from the same place
22 that the chromic acid wastes came
23 from. Why were they mixed? Was it
24 another process? I just don't know.



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1 Q. Let's move on to Western
2 Electric or Agere?

3 Is the analysis the same
4 for Agere as it is with respect to
5 the other plaintiffs that we talked
6 about so far, that the information in
7 the sections of your report dealing
8 with the manufacturing operations and
9 the waste generation practices are
10 all from documents that are listed in
11 your report under Section 6?

12 A. With the same qualification
13 as before, yes.

14 Q. And can you walk me through
15 how you performed the Agere
16 extrapolation?

17 A. We had a lot of
18 information, relatively speaking for
19 Western Electric, which is Agere, and
20 since we don't know how to pronounce
21 it I will say Western Electric. And
22 we also had multiple facilities for
23 Western Electric.

24 So 5a, without spending a



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1 lot of time going through, I mean
2 it's essentially the same process
3 that we went through, and this is
4 heavily referenced. We started with
5 the Reading facility and listed the
6 waste materials that were generated.

7 Some of this is trash as
8 opposed to hazardous waste. We have
9 gallons, we have drums, some of it
10 was reported in pounds. Usually, in
11 this instance, we didn't have gallons
12 and pounds, it was one or the other,
13 so what we did was we kept a running
14 total of each.

15 So where we ended up, and I
16 think it's probably more useful to
17 switch over to -- actually, we will
18 go to Roman Numeral V, which is sort
19 of the abbreviated version of Table
20 5b.

21 Actually, that's not going
22 to work. We will have to go to 5b,
23 because that's where the math is. My
24 mistake.

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1 What we had was for
2 Reading, each of the actual 12-month
3 period from April '73 to March '74
4 for the different waste categories
5 that were identified. So we had a
6 good understanding of a particular
7 12-month period for each of those
8 waste categories and we summed those
9 up.

10 So in the case of, let's
11 pick one, the Miscellaneous Trash
12 Compacted -- Uncompacted, I'm sorry.
13 45,400 for the period April '73 to
14 March '74. If you extrapolate that
15 times eight, I believe you will come
16 up with the 363,525 pounds. It was
17 that kind of a process.

18 Q. So it's your opinion, then,
19 that the records for the Agere
20 Reading facility were complete with
21 respect to the waste types that are
22 listed on Table 5b, correct?

23 A. We concluded that for the
24 period April '73 to March '74 that

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1 represented the best information we
2 had about waste quantities and types
3 for the waste produced at this
4 facility. It was the most complete
5 record we had.

6 Q. And is that just because
7 they had records for every month?

8 A. Yes, that was a very -- we
9 considered that, I considered that to
10 be a very -- again, I don't want to
11 put a qualitative judgment on whether
12 they counted everything, but it
13 certainly was detailed for that time
14 frame, and it appeared that it would
15 include most of the wastes that were
16 generated.

17 But, again, in an absolute
18 sense does it include it all? I take
19 everything at face value.

20 Q. And going through for the
21 North Carolina Works, can you explain
22 how you calculated the average there
23 and what you did to extrapolate?

24 A. There we had two months'

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1 worth of information, February and
2 March of 1972 and copper salts and
3 pounds per month were 50,618, so we
4 took a -- well, actually the 50,618
5 was the average month based on those
6 two months of information.

7 We extrapolated that up to
8 12, so we had an annual average, and
9 then we extrapolated that for the
10 entire period of interest.

11 Q. So how did you calculate
12 the monthly average?

13 A. The monthly average was
14 50,618 times 12, I believe.

15 Q. Well, is the monthly
16 average 50,000?

17 A. Yes, the monthly average is
18 50,000.

19 Q. And how did you calculate
20 the 50,000?

21 A. For North Carolina we would
22 go back to 5a, and we had copper
23 salts produced in February of 1972
24 and you've got four entries, two of



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1 which are for February and two are
2 for March.

3 Q. So did you add them up and
4 divide by four or did you add up the
5 February ones and divide by two and
6 add up the March ones and divide by
7 two?

8 A. Let's see. I don't
9 honestly recall exactly how I did
10 that, but I can reconstruct it pretty
11 easily.

12 Q. Could you?

13 A. Yes. I believe what we did
14 was we took the two entries for 1972
15 and averaged those, the two entries
16 for 1973 and averaged those.

17 Q. For March you mean?

18 A. For March and then came up
19 with the 50,618 as an average monthly
20 for that, yes.

21 And I will admit that
22 that's based on limited information,
23 but it was all the information we
24 were provided. And knowing what we



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1 know about how that operation worked,
2 we knew there was copper salts
3 produced, and it appeared that those
4 copper salts were produced over the
5 entire period of record, so.

6 Q. And how about for
7 Allentown?

8 A. For Allentown it was --
9 Allentown was complicated, so I have
10 to go back and look at exactly how we
11 did that.

12 Q. Because there aren't a lot
13 of references to months in the
14 Allentown records?

15 A. Right. The Allentown
16 records are spottier than the
17 others. And then we had this
18 category of unspecified location,
19 either Allentown or Reading. I'm
20 going to have to look at the text and
21 see how we actually ended up doing
22 that. My recollection isn't fresh on
23 how we dealt with that.

24 What I said in the report,



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1 "Based on the limited quantitative
2 information --" and this is on Page
3 3-21 -- "available for Allentown
4 Works generated wastes, minimum and
5 maximum annual and eight-year
6 extrapolated totals could only be
7 estimated for the flammable liquid
8 wastes, the nonflammable solvents,
9 and acids, miscellaneous chemicals
10 waste streams. Both the minimum and
11 maximum volume for each of these
12 three waste streams was estimated due
13 to the existence of the reported
14 actual annual amounts for 1969 and
15 1970 and Western Electric's own
16 estimates of annual volumes
17 generated."

18 So we ended up with a range
19 based on those two pieces of
20 information for each of those three
21 waste categories. And then once we
22 had those ranges for annual volumes
23 generated, those were simply
24 extrapolated times eight.

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1 Q. And why is it that you
2 could only could do it for flammable
3 liquid wastes, not flammable solvents
4 and miscellaneous?

5 A. Again, this was a complex
6 one for us to do, and at this late
7 hour in the day I don't recall
8 exactly why we picked those
9 categories. I'm certain it had to do
10 with the fact that that's where we
11 had robust data sets or relatively
12 robust data sets.

13 MS. TROJECKI: Want to take
14 another break?

15 (Recess taken)

16 BY MS. TROJECKI:

17 Q. Can you turn to Page 4-1 of
18 your report.

19 A. Sure. Give me a second.

20 Q. I think there is a table --

21 A. No, I was pretty certain
22 there wasn't, but I'm just being
23 thorough.

24 Q. Is the same analysis true



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1 for Bostik, in other words that the
2 information that you have stated in
3 your report in Sections 4.1.1.1 and
4 4.1.1.2 came from documents that you
5 reviewed that are listed in Section 6
6 of your report?

7 A. That is correct.

8 Q. And why is it that you
9 thought you did not have or you think
10 you do not have enough information to
11 determine any quantities of or -- let
12 me rephrase that.

13 Why is it that you did not
14 have enough information to
15 extrapolate with respect to Bostik?

16 A. This was the one -- give me
17 a second. I want to read.

18 The problem with Bostik was
19 that we didn't trust that the Table
20 6a information, which comes from 1976
21 and 1977, represented what this
22 particular facility could have been
23 making in terms of product and waste
24 material from that product.



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1 Q. When you say the Table 6,
2 what table are you referring to?

3 A. I'm sorry, it is getting
4 late in the day. That's why it
5 wasn't making sense. 6a had nothing
6 to do with this.

7 What we had were two or
8 three pieces of information regarding
9 waste generated at Bostik. One was
10 the City of Philadelphia Sewer's
11 information regarding Revere Chemical
12 site; the other was deposition
13 information from Mr. DeRewal, and
14 something called the Bushman
15 memorandum which showed us some
16 things about the composition of the
17 spent acid, but didn't really tell us
18 much about how much was generated.

19 So with regards to Bostik,
20 we just didn't have enough hard
21 factual information in my view to be
22 able to even say for any given period
23 of time how much -- it was clear they
24 were producing acid as a waste, but



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1 nothing that would tell us how much
2 acid was being produced for a month,
3 three months, five months, a year.

4 And I was just not
5 comfortable doing an extrapolation
6 based on the allegation-type
7 information that we had.

8 Q. If you did have information
9 that Bostik generated so much spent
10 acid waste in a month or a year,
11 would you be able to extrapolate
12 throughout the period of interest?

13 A. It's possible we could,
14 yes. I would have to look at what
15 kind of material, hypothetically,
16 documentation we would be presented
17 with, and then we would make a
18 judgment call as to whether we could
19 do an extrapolation, if the data was
20 considered reliable for the period of
21 record and whether there -- because
22 we don't really have a lot of
23 information on the operation at
24 Bostik and how it might have changed

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1 over time, so.

2 Q. Do you know whether the
3 Bostik operation was throughout the
4 entire period of interest as defined
5 in your report?

6 A. I'm not sure that I know
7 that.

8 Q. If you did know that, would
9 there be any other information that
10 you would need to determine whether
11 or not to extrapolate, given that you
12 had some actual quantities?

13 A. My preference is never to
14 extrapolate, so if we are talking in
15 a hypothetical ideal world, I would
16 like to have all of the waste
17 tickets, all of the records, the
18 invoices that show from 1969 to 1977,
19 what waste was produced and how much.

20 The idea would be to have
21 all of the documented waste disposal
22 records. Then I would be very
23 confident in and I wouldn't have to
24 do an extrapolation and I would know



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1 how much waste we are talking about.

2 In the instance of getting
3 some records, yes, we could probably
4 do something with a period of time
5 that we're fairly confident
6 represents all of or most of the
7 waste that was generated for a time
8 frame.

9 And, then, if we knew that
10 the facility hadn't significantly
11 changed its operation, its waste
12 generation practices, then I would be
13 comfortable doing an extrapolation.

14 Q. And many of these
15 instances, though, is it more that
16 you, it's not that you know that the
17 company kept consistent operations,
18 it's that there's no evidence to
19 suggest that they changed; isn't that
20 correct?

21 A. That's correct. That's
22 correct.

23 Q. Okay. Let's turn to Page
24 4-3, Ciba-Geigy. And is it the same



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1 thing for Ciba-Geigy?

2 A. I'm sorry, is it 4.2 or
3 4.3?

4 Q. Page 4.3.

5 A. Okay.

6 Q. So for Section 4.2.1.1 and
7 4.2.1.2, that the information in
8 those sections are relied-upon
9 documents that are listed in Section
10 6 of your report, and you didn't do
11 any independent analysis regarding
12 Ciba-Geigy's manufacturing operations
13 or waste generation?

14 A. Two questions there, it
15 consti -- I don't know how to
16 exact -- the second question is we
17 didn't do any independent research,
18 and the answer to the first one is
19 the same as I have answered
20 previously, we simply used the record
21 documents that we were provided.

22 Q. Okay.

23 And can you walk me through
24 the Ciba-Geigy quantification of



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1 wastes?

2 A. Sure. Hold on one second.

3 All right, for Ciba-Geigy,
4 when we were looking at the Cranston
5 plant, we had what we thought were
6 fairly good records from 1976 and
7 1977.

8 So on Table 6a what we did
9 was we summed up and in most
10 instances they were tanker trucks.
11 Tanker trucks were 3,000 gallons, I
12 don't recall exactly how we knew
13 that, there was something that gave
14 us the ability to say a tanker truck
15 was 3,000 gallons, and there was one
16 or two instances where there was
17 gallonage and pounds provided, so we
18 were able to do some cross-
19 referencing.

20 But, anyhow, I think the
21 summations that we did were in
22 gallons. So we had a 1976 total and
23 a 1977 total, and most of this, if
24 not all of it was waste acid,



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1 different types of acid, but pretty
2 much sulfuric acid.

3 Q. And is it your opinion that
4 the records for 1976 were complete?

5 A. Again, going back to the
6 same qualification that I made
7 before, I don't have a way of
8 independently ascertaining that any
9 records are complete, but they are
10 certainly more robust for 1976 and
11 '77, sufficiently robust, in our
12 view, that we could say as a minimum
13 this was the amount of waste for
14 these years that was generated.

15 Q. Did you extrapolate for
16 Ciba-Geigy?

17 A. Yes.

18 Q. And you extrapolated for
19 1976; is that correct?

20 A. '76 and 1977. If you go to
21 Table 6b you will see how we did
22 that. We came up with a 1976 monthly
23 average. Based on the 1976 totals if
24 you take 40 -- let me just --



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1 Q. I think you actually
2 calculated the average for each
3 month.

4 A. Yes.

5 Q. And then did that. Can you
6 verify that? I mean, that's how you
7 did it for other tables. I didn't do
8 it specifically for Ciba-Geigy.

9 A. I believe that's correct.
10 I believe you are right.

11 Q. Could you actually use the
12 calculator and just confirm that
13 that's right?

14 A. Sure.

15 Q. The first thing you tried
16 to do was, what, divide 3,400 by 6?

17 A. Right.

18 Q. And you didn't come out
19 with a monthly average. So what I
20 think you did is for September, for
21 instance, you added up the entries
22 for September and then divided by
23 five, and then averaged all that.
24 But can you confirm that?



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1 A. Right. I appreciate you
2 giving me that recollection. I
3 believe that's -- I mean, I would
4 have to do more calculations, but I
5 believe that is how we did it.

6 So, anyhow, we came out
7 with the 1976 and 1977 monthly
8 averages that are listed in Table 6b,
9 extrapolated those out to the full
10 years, 1976 and 1977, the monthly
11 average times 12, and then we took
12 1976 and 1977, divided it by two and
13 said that's an annual average, and
14 then took that times eight and came
15 up with 728,239 gallons.

16 Q. And what is the basis for
17 your extrapolating specifically with
18 respect to Ciba-Geigy?

19 A. A belief that we've got a
20 period of time with good waste
21 generation records, and a belief
22 that, not a belief, a lack of
23 information that would suggest that
24 operations through the period of

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1 interest differed significantly from
2 1969 to 1977.

3 Since we didn't see any
4 evidence of a change, we were
5 comfortable taking this period of
6 record and extrapolating.

7 Q. Did you see any evidence
8 that there was no change?

9 A. No. We saw no evidence of
10 a change.

11 Q. And what is Tolban that is
12 referenced in Section 4.2.1.2 of your
13 report?

14 A. According to my text, "The
15 Cranston plant reportedly developed a
16 process to make the Ciba-Geigy
17 product known as Tolban. The Tolban
18 manufacturing process utilized
19 several intermediates including one
20 which used mixed acid for nitration.
21 The nitration process used sulfuric
22 acid and generated wastes or spent
23 sulfuric acid at the Cranston
24 facility."



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DEPOSITION OF JOSEPH J. HOCHREITTER, JR., 2/27/07

1 To answer your question
2 directly, what is Tolban, I would
3 have to go on the web and find out
4 actually what that product is, which
5 I did not do.

6 Q. Do you know if the
7 manufacturing of that product led to
8 the waste that is listed in the table
9 in your report regarding Ciba-Geigy?

10 A. I don't know with certainty
11 that the Tolban manufacturing process
12 produced part or all of the acid
13 that's discussed or presented in
14 Section 6a.

15 I think it's reasonable to
16 expect that at least a portion of
17 this waste acid came from that
18 process, given that's what they did,
19 but it's certainly not the only -- I
20 would believe it's not the only
21 manufacturing process that occurred
22 at that facility.

23 Q. If all of the records that
24 are listed in Table 6a actually refer

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1 to waste generated as a result of
2 manufacturing Tolban, would you say
3 that it's not appropriate to
4 extrapolate over the eight-year
5 period given that the records
6 indicate that it was only
7 manufactured in the early to late
8 1970s?

9 A. That would be correct. If
10 we had evidence that suggested that
11 all of that waste in 6a was generated
12 from the Tolban process, then we
13 would have to modify the
14 extrapolation to only cover the
15 period of time that that process
16 existed.

17 Q. I'm sorry to do this to
18 you, but I'm actually going to have
19 to ask that you go back and calculate
20 for Ciba-Geigy the monthly average,
21 because I see here in my notes that I
22 tried to do it both ways and I don't
23 know what the outcome was. Just to
24 be sure.



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1 I mean, if there's an error
2 I want to make sure that we get it.

3 A. There is, by the way, I
4 think, in Ciba-Geigy a typo.

5 MS. WRIGHT: In the stuff
6 that we sent you yesterday.

7 THE WITNESS: Yes, if you
8 go to 4-4 of the --

9 BY MS. TROJECKI:

10 Q. In the stuff that you sent
11 me yesterday?

12 A. Yes. But you will actually
13 see in the stuff I sent you yesterday
14 the total of 66,767 pounds at the
15 top, that number is off by a little
16 bit, and that's a typographical
17 error.

18 So if you look at the
19 material that we provided yesterday,
20 you will see that that's corrected
21 and that might answer your question.

22 Q. Well, just because you
23 brought it up, I just want to say for
24 the record that the report that was



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1 sent to me yesterday, I received it
2 by e-mail last night at 6 o'clock. I
3 haven't had a chance to look at it
4 yet.

5 In fact, I didn't get it
6 until this morning. During our lunch
7 break, I actually opened it up and
8 printed it. So we are not waiving
9 our right to object to the revised
10 report or to call Mr. Hochreiter back
11 for another day of deposition if we
12 have to.

13 With that being said, I am
14 going to skim it before we leave
15 tonight during a break and I will ask
16 you whatever questions I can about
17 it.

18 A. Okay, that's fine.

19 Q. So for right now, the
20 typographical error that you are
21 speaking of in your new report, was
22 that just a typo or was that
23 different math that was performed?

24 MR. PETTIT: I object to



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1 the form of that question. It's not
2 a new report. They are fairly minor
3 corrections to the existing report,
4 so I would object to the
5 characterization of new report.

6 MS. FLAX: And I would add
7 to that objection that Mr. Hochreiter
8 testified that the number in
9 Hochreiter 1 is incorrect, and he's
10 corrected it in the corrected pages
11 that were provided to you last
12 evening.

13 That was his testimony, so
14 I just don't want to suggest that --

15 MS. TROJECKI: And I'm just
16 trying to find out if it's just a --
17 BY MS. TROJECKI:

18 Q. The question was, was it
19 just that you typed in the wrong
20 number or was there actually new
21 analysis?

22 Because I haven't read the
23 revised report, and that being said,
24 I did skim it, and I saw a lot of

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1 underlined sections where it looks
2 like there were significant changes
3 to it, but, like I said, I haven't
4 read it yet.

5 A. To answer your question, it
6 was simply a transcription error.

7 Q. Okay. Now, has your
8 opinion --

9 MS. TROJECKI: I want to
10 have marked as the next exhibit a
11 draft of your report that was sent
12 from Valerie Holliday to you on
13 September 20th by e-mail.

14 (Hochreiter Exhibit 11 was
15 marked for identification.)

16 BY MS. TROJECKI:

17 Q. And I want to call your
18 attention to Page 4-7. And the
19 paragraph that starts with "Based on
20 currently available information
21 knowledge of Ciba's operating time
22 frame and activities during that time
23 frame is insufficient to justify
24 extrapolation of the limited 1976 to



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1 '77 waste acid generation data into
2 the remainder of the 1969, 1977 time
3 frame."

4 That appears to be a
5 different conclusion than the
6 conclusion that you ultimately
7 reached in your final report,
8 correct?

9 A. That is correct.

10 Q. Can you tell me why the
11 change?

12 A. I don't think there was any
13 new information that was provided.
14 We took another look at all of the
15 data when this particular draft of
16 the report was produced.

17 I was looking to see if the
18 original or the initial conclusions
19 that I was reaching with regards to
20 the application of the extrapolation
21 guidance were appropriate.

22 And in the case of Ciba, I
23 made the determination that, in fact,
24 although initially I didn't feel



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1 comfortable doing the extrapolation,
2 as we looked at the data again I got
3 myself more comfortable with it, and
4 it was just a decision on my part to
5 go ahead and do the extrapolation.

6 I felt comfortable with it,
7 because to do so would be consistent
8 with the way we dealt with other
9 plaintiffs or settled defendants.

10 Q. Did you speak to defense
11 counsel at all about the change from
12 your first opinion that there was
13 insufficient information to
14 extrapolate and then later
15 extrapolating with respect to Ciba-
16 Geigy?

17 A. I don't have a recollection
18 that I specifically talked to defense
19 counsel about that. It's possible
20 that it might have come up in a
21 conversation or comments, you know,
22 but I don't have a specific
23 recollection that defense counsel led
24 me to look at this again.

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1 My recollection is that
2 this was something that I looked at
3 in the course of developing the
4 expert report and felt that we could
5 comfortably do.

6 Q. So what was it that you
7 were missing the first time, or what
8 changed? What made you change your
9 mind, specifically?

10 A. We prepared this report,
11 basically, in 45 days, so there was
12 an awful lot of information that was
13 being digested and analyzed, and the
14 application of these criteria,
15 because every plaintiff and settled
16 defendant had a different checkered
17 history as to exactly how much
18 information was available and how
19 much was missing.

20 So I made a first cut of
21 what I was comfortable doing the
22 extrapolation on and then had a
23 conversation with my colleague
24 Valerie, as well as, you know,

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1 general discussions with counsel
2 about the direction we were going.

3 This was my decision,
4 though, and if somebody raised a
5 question, a specific question and
6 said, Gee, if you did it here, why
7 didn't you do it here, I don't have a
8 recollection of that conversation.

9 My recollection is that we
10 did an initial cut of what we could
11 extrapolate and what we couldn't and
12 then went back, as I thought was
13 prudent, to reevaluate what we had
14 done, and my sense was, you know, on
15 second read, I think we do have
16 enough information for Ciba to be
17 able to do a credible extrapolation.

18 Nothing more complicated
19 than that.

20 Q. Is this one that is sort of
21 on the fence, you could go either
22 way?

23 A. I made the decision to do
24 the extrapolation, so I'm comfortable



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1 with that.

2 You could make an argument
3 for many of these extrapolations
4 that, if we were armed with better
5 information, quite frankly, we would
6 use that information. And if we have
7 better information, then we will go
8 ahead and use it. This is a judgment
9 call.

10 And, obviously, in an
11 earlier iteration of this report my
12 feeling was I wasn't comfortable
13 doing the extrapolation. As I
14 thought about it, I felt to do an
15 extrapolation on Ciba would make it
16 consistent with other decisions we
17 were making on other plaintiffs or
18 settled defendants.

19 Q. So what specifically was it
20 about Ciba-Geigy that made you decide
21 in the end that you could
22 extrapolate?

23 A. I think the quantity of
24 information that we had, the fact



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1 that it appeared for that 1976, '77
2 time frame to be a fairly robust data
3 set after all.

4 Q. Did you consider the
5 manufacturing operations of Ciba-
6 Geigy in deciding whether or not to
7 extrapolate?

8 A. There was nothing in the
9 information that we had that
10 suggested that there were significant
11 changes in the Ciba operation during
12 the period of time. Now, that being
13 said, the Tolban manufacturing was a
14 product that came on line during the
15 period of interest.

16 We don't know whether there
17 were other manufacturing processes
18 that occurred. This plant I don't
19 think came into existence when Tolban
20 was created, they were making other
21 things.

22 And we don't know, as I
23 said before, whether the Tolban
24 manufacturing process itself is

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1 representative of 0 percent, 10
2 percent, 50 percent, 100 percent of
3 the waste materials that were
4 tabulated through 1976 and '77.

5 So it's certainly possible
6 for someone armed with better
7 information to be able to enlighten
8 this analysis, and I would love to
9 see if that information exists, but
10 given what we had, I was comfortable,
11 I got myself very comfortable with
12 going ahead and doing the
13 extrapolation.

14 Q. But do you have any opinion
15 other than the possible -- other than
16 the wastes listed in your table
17 regarding Ciba-Geigy may have come
18 from Tolban manufacturing as to what
19 other manufacturing processes this
20 waste could have come from?

21 A. I do not. Everything that
22 we know about what they did is in
23 this -- essentially summarized in
24 this report.



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1 Q. So you don't know anything
2 about the frequency of waste pickup,
3 correct?

4 A. I don't recall anything
5 that I saw in the documentation that
6 would give us a good indication of
7 frequency of waste pickup over the
8 period of interest.

9 Q. Okay. Can you refer to
10 Page 4-5 of your report, Knoll
11 International.

12 It appears that the only
13 information you have regarding
14 Knoll's manufacturing operations or
15 waste generation is deposition
16 testimony in this case; is that
17 correct?

18 A. That's my understanding,
19 yes.

20 Q. And why is it that you do
21 not believe you have -- you are not
22 able to extrapolate with respect to
23 Knoll?

24 A. If you look at Section



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1 4.3.2, and we basically summarize in
2 three bullets what we know or think
3 we know about Knoll's waste
4 generation history, and it's limited
5 to DeRewal employee deposition
6 testimony.

7 The testimony is not all
8 that enlightening or helpful. It
9 doesn't talk about definitive time
10 frame.

11 The best information was
12 John Barsum basically saying that he
13 used a 4,000-gallon tanker once a
14 month for eight or nine months in
15 1973 or '74, but this is really
16 almost anecdotal information. It is
17 not something that in the hierarchy
18 of information we felt comfortable.

19 So what we said in the
20 report is that, based on just taking
21 those three bullets at face value,
22 you can calculate a range of 39,500
23 to 45,000 gallons of unknown liquid
24 wastes generated by Knoll during the

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1 early to mid-1970s.

2 I don't know how I could
3 begin to credibly extrapolate that,
4 because I'm not certain I know what
5 time frame we are talking about, and
6 I'm certainly not comfortable with
7 that being a number I could rely on
8 in terms of volume.

9 Q. Can you turn to Page 4-6 of
10 your report, Plymouth Tube Company.

11 Your conclusion with
12 respect to Plymouth Tube Company is
13 that Plymouth Tube generated an
14 estimated volume ranging from 28,000
15 to 299,000 gallons of spent acid
16 waste, correct?

17 A. During the period 1972 to
18 1976, yes.

19 Q. And what is that based on?

20 A. It is based on available
21 shipping documents for waste acid
22 produced June through November, 1976,
23 which are the actual hard evidentiary
24 materials, and then we had a 1971



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1 permit application that -- at the
2 high end that talked about spent acid
3 and rinse wastewater, 230 gallons a
4 day, five days a week, 52 weeks a
5 year over the five-year period.

6 If you do that simple math,
7 you come out to 299,000 gallons.

8 And then we had Hawk, 1977,
9 which was the general manager of
10 Plymouth, basically, he wrote to the
11 Pennsylvania DER that Plymouth Tube
12 disposed of hazardous wastes, spent
13 pickle liquor during the period '72
14 to '77, and he gave estimates of what
15 he thought that was, which ranged
16 from 27,000 gallons to 51,750
17 gallons, depending on the number of
18 loads.

19 Q. And do you have any opinion
20 as to what is the most appropriate
21 estimate, the 28,000, the 27,000, the
22 51,750, or the 299,000?

23 A. We say in the note below
24 Table VII, "The 27,000 gallon

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1 estimate is excluded from the
2 estimated range of total wastes
3 because it is considered to be
4 superseded by the 28,000-gallon total
5 derived from the '76 shipping
6 documents."

7 So if you are allowed to
8 make that substitution, we have three
9 sets of numbers, and we are not able
10 to ascribe relative merit to any of
11 those three numbers. It's an order
12 of magnitude differential in terms of
13 quantity.

14 Q. And I notice that earlier
15 drafts of your report do not
16 reference the 1971 permit
17 application. Do you recall that
18 being added at some point later?

19 A. I think that may have just
20 been something that was in our -- I
21 don't think anybody sent it to us
22 later. I could be wrong, but I think
23 that we got that in the initial set
24 of documents.

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1 It was just something in
2 the course of reviewing the
3 evidentiary material we said, Well,
4 you know, this is another way we
5 could look at this.

6 Q. Did you review it the first
7 time around?

8 A. We reviewed everything the
9 first time around, but you don't do
10 it perfectly the first time around.
11 You --

12 Q. Was there actually a
13 decision that, after you reviewed the
14 1971 permit application, that it's,
15 you know, not reliable enough to base
16 an estimate on? Why was it included
17 later on, or did you just miss the
18 document completely?

19 A. No, I don't think it was
20 either. I know for a fact that I
21 knew the document existed. We made a
22 decision in the initial cut of the
23 reports or the report that the permit
24 application really wasn't relevant.



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1 And then going back and
2 internally reviewing what we had
3 done, we thought of the permit
4 application and said, Well, you know,
5 this is a way that we might be able
6 to bracket a range.

7 Q. Now, does the permit
8 application, is that just a -- it
9 talks about it in your report, as
10 proposed in the permit application,
11 spent acids from the first still
12 rinse were to be hauled from the
13 facility by the contractor. Do you
14 know if that ever actually happened?

15 A. I do not know that. That's
16 why we provided a range. Because if
17 they made, which they did, the
18 application for permit, and the
19 permit allowed for that quantity to
20 be generated, then conceivably that's
21 an upper-end limit. They certainly
22 wouldn't exceed the permit.

23 And we certainly knew that
24 the 28,000-gallon number was based on

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1 a very limited period of time, and
2 without knowing -- and it was a
3 one-shot deal, so we didn't know
4 whether that represented a period
5 that was low production of waste,
6 high production of waste.

7 So in this instance we made
8 the judgment call that we will go
9 with a range.

10 Q. And you actually
11 extrapolated using the permit
12 application for the time period '72
13 to '76, correct?

14 A. That's correct.

15 Q. And what's the basis for
16 your extrapolating specifically with
17 respect to Plymouth Tube Company?

18 A. I think Mr. Hawk's
19 indication that waste was generated
20 from 1972 to 1976 factored into that
21 decision pretty heavily.

22 Q. Okay. Anything else?

23 A. Not that I recall.

24 Q. Going back again to the



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1 Plymouth Tube, do you know if
2 Plymouth Tube was in operation before
3 1972?

4 A. I don't know whether there
5 was an operation there prior to
6 1972. I suspect there wasn't.

7 Q. And why do you say that?

8 A. The application for the
9 permit, I believe, was filed to allow
10 for the manufacturing process to
11 commence. There may have been a
12 different operation there. I can't
13 speak to that.

14 Q. And is that why you then
15 didn't extrapolate to earlier years?

16 A. That's correct. Basically,
17 I believe it was Mr. Hawk's, the Hugh
18 Hawk 1977 document that gave us
19 insight on the period of time they
20 operated.

21 Q. But you didn't do any
22 independent analysis to determine
23 what manufacturing processes resulted
24 in the wastes that are listed in your



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1 table regarding Plymouth Tube?

2 A. No.

3 Q. Where are we up to,
4 Quickline Design & Manufacturing?

5 A. Yes.

6 Q. You believe that Quickline
7 generated a minimum volume of 1,925
8 gallons of waste chromic acid; is
9 that correct?

10 A. Let me take a look. Yes,
11 that's what I say in the report, and
12 that's my recollection.

13 Q. And that's based on a
14 DeRewal Chemical Company invoice from
15 1973, correct?

16 A. I believe it is, yes.

17 Q. And why is it that you were
18 not able to extrapolate with respect
19 to Quickline?

20 A. Concern here was again that
21 we had very limited information in
22 4.5.1.2, Section 4.5.1.2. There are
23 three bullets that summarize what we
24 know about Quickline's operation.



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1 One of them is deposition
2 testimony, one is correspondence from
3 DeRewal to Quickline quoting for
4 disposal of a certain type of waste.
5 And then we have the DeRewal Chemical
6 Company invoice, the one invoice
7 dating from 1973 where 35 drums of
8 chromic acid waste was taken off
9 site. We don't know the time frame
10 that that particular transport is
11 supposed to represent.

12 So we have such little
13 information that I was very
14 uncomfortable doing any
15 extrapolation.

16 Q. What do you mean when you
17 say you don't know the time frame
18 that that transport was supposed to
19 represent?

20 A. Well, dates from 1973, was
21 that a six-month aggregate, a
22 two-month aggregate, a two-year
23 aggregate, a three-year aggregate of
24 waste? We just don't know.



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1 Q. I guess I didn't look at
2 that document particularly. When you
3 say dates from 1973, what does that
4 mean?

5 A. I believe that means that
6 the invoice was dated 1973.

7 Q. So based on that, would you
8 say that the chromic acid was
9 generated some time in 1973?

10 A. I can't say. And that's
11 the concern.

12 Q. Haven't you done that with
13 respect to all the other plaintiffs
14 and settled defendants, though?

15 A. I made an assumption that
16 they would be in compliance with
17 RCRA, so in a best case scenario,
18 1973, 90 days prior to the date of
19 that invoice that waste was generated
20 on site. I don't know what process,
21 I don't know anything about how it
22 came to be.

23 So even if we assume that
24 that's the underlying assumption, we



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1 still have one 90-day window, and we
2 are not even certain of the 90 days,
3 but we will assume it, in 1973 where
4 Quickline's wastes are identified by
5 volume. It's just insufficient in my
6 judgment to extrapolate and draw any
7 conclusions.

8 So what we say is that you
9 can calculate 1,925 gallons, and we
10 certainly consider that a minimum
11 amount.

12 Q. Now, was Quickline in
13 operation throughout the entire
14 period of interest, as defined in
15 your expert report?

16 A. In my report, we say during
17 the period 1970 to 1977, Quickline
18 Designed & Manufacturing was located
19 at 1 Fellowship Road, and I reference
20 Schmidt, 2003. So I don't have a
21 recollection of Schmidt, but I am
22 assuming that in Schmidt that is what
23 they are telling us.

24 Q. So I guess what I'm



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1 struggling with on this one is that
2 you -- on some of the other ones you
3 said you weren't able to extrapolate
4 because you didn't know if they were
5 in operation at the time and for
6 American Cyanamid and SPS you were
7 able to extrapolate based on
8 specifically that those companies
9 were in operation continuously
10 throughout the entire time period.

11 So in this one it seems
12 that Quickline was manufacturing the
13 entire time period and you do have
14 one record, so what's the difference
15 here?

16 A. The difference here is
17 that, in the case of American
18 Cyanamid, we've got a period within
19 our period of interest, a subperiod
20 of interest if you will, where we've
21 got what we judge to be a fairly
22 robust data set in terms of the types
23 of wastes that were generated.

24 In the case of Quickline,



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1 I've got one invoice that shows that
2 one type of waste was picked up one
3 time, and we have a quantity
4 associated with that. I don't know
5 if there were ten or 50 or 100 or
6 zero other waste streams that were
7 created or produced during that
8 period of time.

9 What I know is that they
10 were operating from 1970 to '77, but
11 I know nothing about the waste
12 itself, unlike Cyanamid where I have
13 quite a bit of information about
14 their waste.

15 Q. How does this compare to
16 the SPS case where you had two
17 records of acetone and you knew SPS
18 was in operation, you didn't know how
19 the acetone was generated, but you
20 did extrapolate in that case?

21 A. In the case of SPS, and I
22 would have to go back and look, but I
23 believe -- SPS was one where there
24 were a number of waste streams



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1 generated, of which one, a relatively
2 minor one, was acetone.

3 And I believe I testified
4 that, in the case of SPS, had acetone
5 in these quantities been the only
6 thing produced, we probably would not
7 have undergone any extrapolation. We
8 would be doing with Standard Pressed
9 Steel exactly what we did with
10 Quickline.

11 What we had, however, was
12 more robust information for the other
13 waste streams and since we were
14 extrapolating those and acetone, and
15 nickel is the other one in that
16 category, were very small quantities
17 to extrapolate them for an eight-year
18 period along with the others, whether
19 you believe that acetone and nickel
20 can be extrapolated or not, at the
21 end of the day, it really doesn't
22 make any difference to the bottom
23 line.

24 So you could question,



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1 well, you know, you shouldn't have
2 extrapolated acetone and I won't put
3 up a huge fuss, but at the end of the
4 day, it doesn't make a huge
5 difference.

6 Q. So let me ask the same
7 question with respect to, say,
8 American Cyanamid's waste spill
9 bottoms.

10 If you only had two
11 invoices for referencing waste spill
12 bottoms for American Cyanamid, would
13 you be able to extrapolate in that
14 instance?

15 I guess what I'm getting at
16 is, I believe that you testified
17 earlier, that with respect to the
18 American Cyanamid waste, that you
19 weren't familiar with the
20 manufacturing processes associated --
21 that resulted in the generation of
22 each of the wastes in the American
23 Cyanamid records?

24 A. That's probably true for



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1 most of these sites.

2 Q. So how is it that you
3 extrapolated with respect to American
4 Cyanamid for waste spill bottoms but
5 not with respect to Quickline?

6 MS. WRIGHT: Objection.
7 You have asked this question and
8 Mr. Hochreiter has answered it on a
9 number of points.

10 MS. TROJECKI: Okay, well,
11 just let him answer it.

12 THE WITNESS: The reason
13 that we did it in some instances and
14 not in others, it was a judgment call
15 based on how -- the reliability of
16 the data that we were faced with,
17 whether corroborating information
18 existed, multiple sources, that sort
19 of thing.

20 There truly was no specific
21 numerical calculus that you could sit
22 down and say -- I mean, we did lay
23 out in my expert report the criteria
24 that I used for generally evaluating



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1 whether extrapolation was possible or
2 not.

3 And at the end of the day,
4 it was a personal judgment call,
5 which I stand behind, with regards to
6 whether I was comfortable that we had
7 enough information to be able to say
8 something meaningful about what a
9 particular company was doing.

10 And in the case of
11 Quickline we have some of -- one
12 particular company where we have
13 probably the least amount of
14 information.

15 BY MS. TROJECKI:

16 Q. Let's move on to Rohm &
17 Haas, Page 4-9. You state that you
18 have no opinion regarding waste
19 quantities generated by Rohm & Haas
20 during the period of interest,
21 correct?

22 A. Yes. I said that the
23 information data currently available
24 at the time of this report



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1 preparation was insufficient.

2 Q. And just, I have asked this
3 question similar with respect to the
4 other --

5 A. Do you mind just one
6 second.

7 (Discussion off the
8 record.)

9 BY MS. TROJECKI:

10 Q. And why is it that you
11 believe you -- no, actually, I was
12 getting to the question of -- with
13 respect to the information you have
14 in Section 4.6.1.1 and 4.6.1.2. Did
15 that all come from deposition
16 testimony?

17 A. Yes, in 4.6.1.2 we
18 reference four pieces of information
19 that in the report are identified as
20 various depositions.

21 Q. But, again, the same
22 question with respect to the other
23 plaintiffs and settled defendants,
24 you didn't do any independent



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1 analysis about the manufacturing
2 processes of Rohm & Haas, correct?

3 A. We did not.

4 Q. Or their waste generation
5 handling practices, correct?

6 A. Correct.

7 MS. WRIGHT: We will
8 stipulate that Mr. Hochreiter did not
9 do any independent research.

10 MS. TROJECKI: We only have
11 two more. I already asked about the
12 other ones. Got to have it.

13 BY MS. TROJECKI:

14 Q. And why is it that you
15 believe that you don't have enough
16 information with respect to Rohm &
17 Haas?

18 A. Well, if you look at
19 Section 4.6.1.2, the deposition
20 information, if you will, Marvin
21 Jonas recalled hauling unspecified
22 waste solvents and such from the
23 Bridesburg, Pennsylvania plant, no
24 information on quantities, no



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